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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2713 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

VITHAL B SHINDE, ARMED POLICE CONSTABLE

Versus

STATE OF GUJARAT

Appearance:

MR IS SUPEHIA for Petitioner

MR SP HASURKAR for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 07/05/99

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. Rule. Shri S.P. Hasurkar, waives service of rule on behalf of the respondents. The matter is taken up for final hearing on the request of the counsel for the parties.

3. One of the contentions raised by the learned counsel for the petitioner is that the impugned orders

dated 24-2-1999, 26-3-1999 and 26-3-1999 have been passed without notice and opportunity of hearing to the petitioner. It is further contended that under these orders, the notional increments which have been given to the petitioner way back in the year 1990 were withdrawn and further the order has been passed for recovery of the excess amount paid to him.

4. These orders result in civil consequence. The pay of the petitioner has been reduced. Before passing such orders, the minimum requirement of the principles of natural justice are to be adhered to. Learned counsel for the respondents very fairly submitted that these orders have been passed against the petitioner without giving any notice and opportunity of hearing to him. Under the orders impugned in this special civil application, the petitioner's pay has been reduced and further the recovery of the excess amount has to be made. This is a serious thing and it results in civil consequence. Even if these orders are taken to be only administrative orders still before passing these orders, the petitioner should have been given an opportunity of hearing.

5. Only on this ground, this special civil application deserves to be allowed and accordingly it is allowed and the orders dated 24-2-1999, 26-3-1999 and 26-3-1999 annexures, 'C', 'D' and 'E' to this petition are quashed and set aside. However, the acceptance of this writ petition will not come in the way of the competent authority to pass fresh orders after giving notice and opportunity of hearing to the petitioner. Rule is made absolute in the aforesaid terms with no order as to costs.
